

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

KEN ROBERTS,

Plaintiff,

v.

JAMES GREG COX, *et al.*,

Defendants.

2:09-cv-02382-PMP -VCF

O R D E R

Before the court are defendants James Greg Cox, *et al.*'s Motion For Leave To Depose Incarcerated Individual (Plaintiff, Ken Roberts) (#69) and Motion To Strike Plaintiff's Request for Admissions and First Request for Production of Documents (#71).

On August 31, 2010, plaintiff Ken Roberts, an inmate at Ely State Prison in Ely, Nevada, filed his complaint against several defendants for alleged civil rights violations. (#8).

Motion To Take Deposition

In the present motion (#69), the defendants ask this court to permit them to take plaintiff Roberts' deposition. Defendants assert that taking plaintiff's deposition is "the most reliable means for arriving at the truth of the matters asserted in the pleading." (#69).

Pursuant to Federal Rule of Civil Procedure 30(a)(2)(B), "[a] party must obtain leave of the court, and the court must grant leave to the extent consistent with Rule 26(b)(2)," if the party seeks to depose an individual who is confined in prison. Rule 26(b)(1) permits litigants to "obtain discovery regarding any nonprivileged matter that is relevant to any party's claim or defense." Fed. R. Civ. P. 26(b)(1). Defendants wish to depose the plaintiff in this action. (#69). The court finds that plaintiff Roberts' deposition testimony is relevant to the allegations in the complaint. Fed. R. Civ. P. 26(b)(1). Therefore, the defendants are granted leave of the court to take the deposition of plaintiff Roberts.

1 **Motion To Strike**

2 On March 22, 2012, plaintiff Roberts filed his request for admissions (#67) and his first request
3 for production of documents (#68). Defendants assert in the instant motion that plaintiff timely served
4 defendants with these documents pursuant to the court's March 5, 2012, order. (#71). Defendants also
5 state that they "will be serving timely objections/responses [to] [p]laintiff's" requests. *Id.* Defendants
6 ask this court to strike the plaintiff's unnecessary filings. *Id.* Pursuant to Local Rule 26-8, "[u]nless
7 otherwise ordered by the court, written discovery, including responses thereto, and deposition
8 transcripts, shall not be filed with the court." Striking the filings does not relieve defendants of their
9 obligations to respond to the written discovery in accordance with the Federal Rules of Civil Procedure
10 and the Local Rules of this court.

11 Accordingly, and for good cause shown,

12 IT IS ORDERED that defendants James Greg Cox, *et al*'s Motion For Leave To Depose
13 Incarcerated Individual (Plaintiff, Ken Roberts) (#69) is GRANTED.

14 IT IS FURTHER ORDERED that defendants James Greg Cox, *et al*'s Motion To Strike
15 Plaintiff's Request for Admissions and First Request for Production of Documents (#71) is GRANTED.

16 IT IS THEREFORE ORDERED that plaintiff's Request for Admissions (#67) and First Request
17 for Production of Documents (#68) be STRICKEN.

18 DATED this 2nd day of April, 2012.

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21 **CAM FERENBACH**
22 **UNITED STATES MAGISTRATE JUDGE**
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